

of 1957 experienced at the time we entered Dartmouth. The notorious senator from Wisconsin was able to intimidate politicians, academics and Hollywood writers in his wide-ranging and, in many cases, wholly unjustified pursuit of alleged communist sympathizers.

Turning to the present, I am convinced we are faced today with a worse threat to free speech than during that earlier time. Indeed, now some political speech is attacked as if it were blasphemy drawn from the colonial period when witches were burned at the stake. Threats against political speakers are not simply levied by unscrupulous politicians, they come also from young people influenced by academics—ironically the prime targets of the McCarthy era. Certain controversial subjects are placed out of bounds.

I am shocked at the recent challenges to free speech in our academic institutions—particularly the Ivy League. For example, recently at Yale Law School, students attempted to stop, then drown out, a public dialogue between a conservative and a liberal lawyer. They were both supporting untrammelled political speech. The administration's response was to vaguely gesture at the importance of free speech but also to celebrate "respect and inclusion"—whatever that means. The dean sent a letter calling the behavior "unacceptable," but she did not so much as issue a slap on the wrist to the students who were hostile to free speech.

And at Princeton, Prof. Joshua Katz was stripped of his tenure and fired after challenging the university's orthodox view on race. He was terminated ostensibly based on the disputed details of a consensual relationship he had with a student 15 years ago—for which he had already been disciplined. This was only after he criticized a Princeton faculty letter that demanded preferential treatment both for minority faculty and a black student organization. Does anyone believe that Katz would have been fired if instead he gave a speech in support of a black student organization?

Similarly, at Harvard, Prof. Roland Fryer, one of the most gifted economists in the country—who happens to be black—has been suspended for two years for allegations that he made inappropriate comments. His supposed crime was telling raunchy jokes. But Fryer's real crime was his work empirically demonstrating that police do not kill blacks at a higher rate than other races, and that black students excel when faced with high expectations—challenges to the current shibboleths on race.

Amy Wax, professor at Penn Law School, was recently punished because she unwisely—indeed somewhat cruelly—described her experience over many years regarding black student performance in her class. She therefore touched on the mismatch theory popularized by Richard Sander and Stuart Taylor. They wrote a book by that name and have filed an amicus brief in the Harvard case before the Supreme Court.

They contend that in an effort to achieve soft quotas, elite schools artificially admit less qualified minorities thereby injuring the very students supposedly benefitted. In other words, in a less competitive school those students might do much better. I emphasize that, as a judge, I take no position on the mismatch theory. But I predict you will see reference to it in the forthcoming Supreme Court opinion.

To be sure, it is unseemly for any serving professor to suggest that minority students are less qualified. (That proposition is more

readily expressed openly by emeritus professors no longer teaching, like Alan Dershowitz at Harvard Law School and Stanley Goldfarb at Penn Medical School.) In furtherance of Amy Wax's tendency to offend minority groups, she recently attacked Asian-Americans in the most unflattering terms. I gagged when I read her remarks, but free speech is free speech.

Even Dartmouth, to my distress, has engaged in smothering provocative speech. In January, the college cancelled an event with Andy Ngo, a controversial conservative journalist. His speech was forced online based on unspecified information from the Hanover Police Department. Apparently, Dartmouth has been evasive about the "credible threats" it received. It has provided shifting rationales for its decision.

The College Republicans have also been charged \$3,600 for an event which did not actually take place. Indeed, I think it is inappropriate for the college to ever charge organizations for the protection their speech requires. That policy simply accentuates the power of those who would discourage free speech.

If the Dartmouth administration had the backbone to discipline students who shouted down speakers or to arrest nonstudents for disrupting events, the deterrent effect would obviate the need for imposing security expenses.

Regardless of the situation, the college aligned itself with those who wish to silence speech by cancelling the event. It should be recalled that, in *Terminiello*, the Supreme Court squarely rejected the so-called heckler's-veto rationale for suppressing speech. The court held that speech cannot be punished merely because it could cause unrest amongst potential listeners.

A common thread of these incidents at Yale, Princeton, Harvard, U Penn and Dartmouth is that university authorities, in discouraging unfashionable speech, do not do so explicitly. Rather, they perform an "Ivy League Two Step." First, they pay lip service towards the value of free speech. Then they use alternative reasons as a pretext to shut down "objectionable" speech. That, in some ways, is more dangerous than a frontal attack.

Even assuming that there are some circumstances in which speech can be legitimately restrained, we have seen that schools have been inclined to dissemble in their justifications for suppressing speech.

It is for that reason, when universities take action to limit free speech, they have a solemn responsibility to be absolutely honest and transparent in why they are doing so—they must, as Oliver Wendell Holmes said, "turn square corners" when demanding such accommodations. So far, our Ivy League schools have demonstrated a pattern of suppression that should upset all friends of freedom of speech.

I hope that Dartmouth's new president, Sian Leah Beilock, will have the steel in her spine that is needed to take this responsibility seriously and stand up for free speech when it becomes difficult. Her recent statements are encouraging. But when the chips are down, many university presidents have folded.

Admittedly, one of the most serious questions the country faces is how to achieve racial equality. Does it mean equal opportunity or equal results? Is progress for African-Americans, for instance, held back because of residual racism or because of other aspects of the black experience? Views about

achieving racial equality that are uttered in good faith are repressed—even shut down as "racist"—if they vary from certain orthodoxies.

As a result, the charge of "racism," not unlike McCarthy's frequent cry of "communism," has been drained of much of its meaning. Similarly, debates over issues relating to sex education and sexual identity—issues about which many hold sharply divergent views, sometimes based on religious differences—are ruled unacceptable.

Those repressive forces come from the left side of our political spectrum, but I can think of examples coming from the opposite political pole. For instance, although it is certainly reasonable for parents to argue about the curriculum of public schools, it is intolerant to seek to ban library books on critical race theory, at least at the high school level.

By the same token, efforts to prevent persons such as Linda Sarsour from speaking on college campuses in support of BDS (boycott, divestment and sanctions) directed against Israel are equally intolerant. As a onetime special envoy in the Middle East I regard BDS and Sarsour's views as particularly obnoxious, but I deplore the effort of Jewish groups to prevent her from speaking at universities.

My class at Dartmouth entered in the fall of 1953. The previous spring Dwight D. Eisenhower spoke at commencement. He implicitly attacked Joe McCarthy and McCarthyism, admonishing students: "Don't join the book burners."

Consider the context of Eisenhower's speech: we were in the midst of a Cold War with the Soviet Union, over 50,000 American men had been killed in Korea, and there were indeed prominent pro-communist traitors in our own government, as well as in allied governments. Nevertheless, speaking extemporaneously, Eisenhower courageously said, "How will we defeat communism unless we know what it is and what it teaches and why does it have such an appeal to men, why are so many people swearing allegiance to it? . . . And we have got to fight it with something better, not try to conceal the thinking of our own people."

And this is the part I love: "They are part of America. And even if they think ideas that are contrary to ours, their right to say them, their right to record them, and their right to have them at places where they are accessible to others is unquestioned, or it isn't America."

Because McCarthy was a Republican, it was important that Republicans—most notably Sen. Margaret Chase Smith and then Eisenhower himself—were the ones to speak out and put an end to his reign of intolerance. I hope you Dartmouth students—on both sides of the political spectrum—will stand up for freedom of expression. It is not a partisan issue. It is, as I have tried to explain, fundamental to American democracy.

To be sure, you may have to draw upon "the granite of New Hampshire, in your muscles and your brains" to withstand the immense pressure to bow to conformity. But I expect nothing less.

TRIBUTE TO PATRICK J. LEAHY

Mr. McCONNELL. Madam President, on another matter, we begin to reach

the period every 2 years when the Senate begins our process of honoring and bidding farewell to our distinguished colleagues who are soon leaving our ranks. Seeing friends off is hardly a task to look forward to, but it is made more tolerable when I get to boast about and embarrass our talented colleagues one last time before they head for the exits.

I will begin today with one of only two current Senators who were around when I arrived as a freshman in 1985. By then, of course, PAT LEAHY had already made history.

When PAT was first elected in 1974, he was the first non-Republican to represent Vermont in the Senate since 1856. And now, after eight terms, he will depart having made history all over again as his State's longest serving Senator by a comfortable margin.

Of course, it is the dash in between the dates that matters the most, and to say that PAT LEAHY has made the most of his time in Washington would be truly an understatement.

PAT first developed his habit for life-long learning growing up around the printing press of his family's newspaper in Montpelier. But I suspect our friend never hit the books as hard as he did after he found out that the girl for whom he had fallen head over heels, Marcelle, spoke not English but French at home. The way PAT tells it, he "wanted to know what [Marcelle's] parents were saying about [him]." So the studies began.

Here in the Senate, that same energy and curiosity led PAT to collect enough policy passions for an entire congressional delegation—from dairy farming to privacy, to landmine mitigation.

PAT and I got a chance to work closely together during our long tenures switching off and on as chairmen and ranking members of the State and Foreign Ops Subcommittee on Appropriations. As often as the majority changed hands during our time, PAT and I made a point of working as partners. He always knew the right time to break up tense negotiations with a stemwinder of an old Irish joke.

We rolled up our sleeves and bonded over our shared commitment to extending American influence and promoting our interests using soft power, everywhere from East Asia to the former Soviet Union.

And like good appropriators, we also bonded over a firm mutual conviction that our true opponent was never each other. It was the House.

Our time leading the subcommittee together saw a major landmine removal effort deservedly come to bear the name of its champion: the Leahy War Victims Fund. And PAT lent equal support to one of my passion projects: our work on behalf of the pro-democracy movement in Burma.

All of this work was accompanied by great humor. One time, after an election that turned out well for my side, PAT showed up at our next hearing having found a unique way to show

grace in defeat. Here is what happened. He showed up with a yard sign from a campaign of some local candidate where he lived that read, "McConnell for Chairman," and remarked that, apparently, the voters of his neighborhood had gotten their wish.

Even just measuring by local votes cast, PAT's colossal Senate legacy put the name "Leahy" right up there with fellow titans like Kennedy, Stevens, and Inouye. But PAT's legendary service to the people of Vermont has been more than a vote tally. Over eight terms, he has made a point of becoming not just a familiar name but a friendly face and a committed servant to his neighbors.

And it certainly didn't come easy. The way I have heard the story, PAT's first Senate victory came after he wisely dispatched his darling French-speaking emissary, Marcelle, into the Francophone enclaves of Vermont's "northeast kingdom."

Of course, we know Marcelle is much more than a natural campaigner. She is an accomplished nurse and a treasured member of the Senate's family in her own right.

So I know I speak for so many colleagues, past and present, in saying the Senate will miss our distinguished President pro tempore. But we know that PAT and Marcelle have more than earned some extra free time to spend in their beautiful home State, with their kids—Kevin, Alicia, and Mark—and their five grandkids, and with the many neighbors who are grateful—so grateful—for a lifetime of outstanding service.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Madam President, while the distinguish leader is still on the floor, let me thank him for those remarks. And I know Marcelle will thank him too. Of course, our spouses have spent a lot of time together, and we know who the real leaders are in the house.

I think of what the leader has said, and he speaks of the time when we worked together. And I appreciate very much—I have told him privately, but I will say it publicly: I have appreciated the friendship and the work together.

We did go back and forth over a period of years. Part of the time he was chair, and part of the time I was chair, but in a very, very important subcommittee.

In Foreign Ops we had everything from foreign aid to a lot of the things we did around the world. But that bill would pass on the floor, oftentimes on a Friday afternoon, when everybody would say: Bring it up; we have got to get out of here.

And it passed, virtually, unanimously. We would work out a couple of differences. First, we talked about them, and then they were gone, and off we went.

I remember speaking at a symposium put together by the distinguished leader, and I was given and presented with

a Louisville Slugger with my name on it. Now, throughout the course of any Senator's career, and certainly one of 48 years, you get presented with a lot of things, which you thank people for, and you put them in the closet or the attic. This, I would tell the distinguished Senator, has stayed in public view in my office ever since I came home with it. And I loved showing it off at a time when we have to be back together on more things. But we have on that. You talked about the landmine legislation and the war victims legislation, and I appreciate your work on that, Mr. Leader.

And it reflected such good in this Senate but also the people who were helped by it. There are no eradicating landmines, there is no victim of landmines that is going to come in and say: Well, we can support your next campaign.

No, they don't even know who we are. They know we helped them.

When the leader talked to me about Burma, I finally got educated on Burma. And I was an easy sell—I think he would agree on that—because of the case he made but also because of the history he gave me.

I don't want to hold up the Senate. I will speak longer about these things on the day I leave, which will be soon.

I look forward to leaving because Marcelle and I can be back home all the time, but I will miss so many friends I have made—the well over 400 Senators I have served with. And I think the distinguished leader has served with hundreds also. Some were here for a long time. Some were here for, sometimes, I think, in a couple of instances, a matter of a month or two. I prefer a long time to a month or two. It is easier to get to know each other.

I will speak further about this. But I was honored to be on the floor when this happened.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. Madam President, I walked onto the floor just as Senator LEAHY was closing his remarks, and I want to tell you that we were together in the Judiciary Committee this morning, where I joined the chorus of praise for his career and his service in the Senate. And it seems like at every room he steps into, there is another tribute, and well-deserved. I thank him for being such a steadfast Member of the Senate and, particularly, of the Senate Judiciary Committee, which will forever be benefitted by his contribution.

UKRAINE

Madam President, I rise today to speak on a different topic, and it is one that is very timely and important.